IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

OP.No. 2559 of 2003(D)

PETITIONER:
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1. MAJI D'CRUZ, W/O.JERRY,
   H.NO.10/14, OURULETH HOUSE,
   COCHIN-6.

2. M.S.KALESHAN, S/O.SIDHAN,
   H.NO.10/17, GOPIKA NIVAS,
   PALLURUTHY, COCHIN-6.

3. VILASINI, W/O.RAMADAS,
   H.NO.10/16, PALLURUTHY,
   COCHIN-6.

BY ADV. SRI.BLAZE K.JOSE

RESPONDENTS:
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1. PUPANA BIJI, S/O.JOSEPH P.J. PUPANA,
   PROPRIETOR, ROSLIND WOOD PRODUCTS,
   18/136 B, NEAR PULIMUTTU BRIDGE,
   PALLURUTHY, COCHIN-6.

2. KERALA POLLUTION CONTROL BOARD,
   GANDHI NAGAR, COCHIN,
   REPRESENTED BY CHIEF ENVIORNMENT ENGINEER.

3. CORPORATION OF COCHIN,
   PARK AVENUE, KOCHI-17,
   REPRESENTED BY ITS SECRETARY.

4. THE DISTRICT MEDICAL OFFICER,
   ERNAKULAM, COCHIN-11.

R2 BY ADV. SRI.M.K.CHANDRAMOHAN DAS, SC
R1 BY ADV. SRI.T.I.DANIEL
R3 BY ADV. SRI.N.N.SUGUNAPALAN, SC
R4 BY G.P. SMT.R.BINDU

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 21/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NOS.4559 & 21622/2003 IN O.P. NO.2559/2003

DISMISSED:

21.3.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONERS' EXHIBITS:

P1: TRUE PHOTOCOPY OF MEDICAL CERTIFICATE ISSUED BY DR.A.CLARANCE TO 1ST PETITIONER.

P2: .DO. BY DR.PAUL P. NOBLE TO 2ND PETITIONER.

P3: TRUE PHOTOCOPY OF JUDGMENT IN O.P. NO.23093/2001 DT.6.8.2001.

P4: TRUE PHOTOCOPY OF MINUTES OF THE HEARING OF MEMBER SECRETARY, POLLUTION CONTROL BOARD DT.11.1.2002.

P5: TRUE COPY OF ORDER DT.4.3.2002 ISSUED BY POLLUTION CONTROL BOARD.

P6: TRUE PHOTOCOPY OF JUDGMENT IN O.P. NO.15899/2002 DT.11.7.2002.

P7: TRUE PHOTOCOPY OF NOTICE DT.4.9.2002 ISSUED BY R2.

P8: TRUE PHOTOCOPY OF JUDGMENT IN O.P. NO.35437/2002 DT.11.12.2002.

P9: TRUE COPY OF REPRESENTATION DT.23.12.2002.

P10: TRUE COPY OF COMPLAINT DT.21.1.2003 SUBMITTED BEFORE R2.

P11: .DO. R3.

RESPONDENTS' EXHIBITS:

R1(a): PHOTOCOPY OF CERTIFICATE ISSUED BY DIST. INDUSTRIES CENTRE, ERNAKULAM DT.19.3.92.

R1(b): PHOTOCOPY OF CHALAN DT.19.4.99 ISSUED BY CORPORATION OF COCHIN.

R1(c): PHOTOCOPY OF THE LICENCE FEE REMITTANCE RECEIPT DT.14.2.2000.

R1(d): PHOTOCOPY OF PERMIT ISSUED BY CORPN. OF COCHIN DT.1.2.2001.

R1(e): PHOTOCOPY OF LICENCE FEE REMITTANCE RECEIPT DT.14.2.2001.

R1(f): PHOTOCOPY OF CONSENT LETTER GIVEN BY THE POLLUTION CONTROL BOARD, TVM., DT.22.10.2002.

R1(g): PHOTOCOPY OF NO OBJECTION CERTIFICATE ISSUED BY DIVISIONAL FOREST OFFICER DT.2.11.2002.

R1(h): PHOTOCOPY OF PERMISSION ORDER DT.15.11.2002.

R1(i): PHOTOCOPY OF LETTER DT.19.11.02.

R1(j): PHOTOCOPY OF LICENCE FEE REMITTANCE RECEIPT DT.27.3.2002.

R1(k): PHOTOCOPY OF NO OBJECTION CERTIFICATE ISSUED BY G.C.D.A. DT.3.3.2003.

R1(l): PHOTOCOPY OF NOTICE DT.10.3.2003 RECEIVED BY PETITIONER FROM THE K.S.P.C. BOARD, TRIVANDRUM.

R1(m)(IN CMP NO.19837/2003): PHOTOCOPY OF INTIMATION DT.22.3.03 TO THE POLLUTION CONTROL BOARD, TRIVANDRUM.

R1(n): .DO. ERNAKULAM.

R1(m)(IN I.A. NO.11534/2003): TRUE TYPED COPY OF THE REPORT SUBMITTED BY CHIEF ENVIRONMENTAL ENGINEER, KERALA STATE POLLUTION CONTROL BOARD T.4.9.2003.

R2(a): TRUE COPY OF LETTER DT.17.2.2003 RECEIVED FROM THE SECRETARY, GCDA TO THE CHIEF ENVIRONMENTAL ENGINEER, KERALA STATE POLLUTION CONTROL BOARD.

R2(b): TRUE COPY OF THE CONSENT TO ESTABLISH ISSUED BY BOARD DT.22.10.2002.

R2(c): TRUE COPY OF THE ORDER DT.10.3.2003 ISSUED BY THE BOARD.

R2(d): TRUE COPY OF THE LETTER DT.22.3.2003 ISSUED BY THE BOARD.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR,J.

O.P. NO. 2559 OF 2003

Dated this the 21st day of March, 2007

JUDGMENT

O.P. is filed by petitioners alleging non-compliance of direction issued by the Pollution Control Board for running a saw mill by the first respondent. Petitioners have pointed out condition in Ext.P4 whereunder the Pollution Control Board initially requested relocation of the saw mill by the first respondent to at the north-eastern corner of his property. Petitioners' grievance is that subsequently, the Pollution Control Board withdrew this condition. Obviously if Pollution Control Board was satisfied that shifting is required to prevent pollution for the neighbouring residents, then I see no reason for the Pollution Control Board to deviate from the original proposal. However, it is not known whether there are houses in the north-eastern corner of first respondent's property who will be affected if shifting is done. Counsel for the first respondent contended that first respondent is operating only furniture mart and not a saw mill as claimed by petitioners. In any case running of saw mill is not disputed by the first respondent. A saw

mill will naturally cause sound and dust pollution. Since first respondent has sufficient extent of property, saw mill has to be suitably located so that it causes least pollution both sound and dust to the least number of local residents. Further Pollution Control Board should suggest measures for enclosing the saw mill at least with plastic, tarpaulin, or silpaulin sheets to prevent dust escaping from the mill. O.P. is disposed of with direction to the second respondent to conduct inspection during working hours of the mill with notice to neighbouring residents and suggest remedial measures including shifting and relocation of the saw mill by the first respondent within a reasonable time. If the direction of the Pollution Control Board is not complied with, there will be direction to respondents 3 and 4 to close down the mill. Petitioners will produce a copy of this judgment before the 2nd respondent for compliance.

(C.N.RAMACHANDRAN NAIR)
Judge